

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

WOODROW W. MITCHELL JR

(Name of plaintiff or plaintiffs)

v.

CIVIL ACTION NO. _____

CARGILL FOODS

(Name of defendant or defendants)

COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the Court by 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff,

WOODROW WILSON MITCHELL JR
(name of plaintiff)

is a citizen of the United States and resides at

8952 JOHNSTON
(street address)

CORDOVA
(city)

USA
(country)

TENN
(state)

38016
(zip code)

901-624-4605
(telephone number)

3. Defendant CARGILL

(defendant's name)

lives at, or its business is located at

2330 Buoy

(street address)

Memphis Tenn.

38113

4. Plaintiff sought employment from the defendant or was employed by the defendant at

2330 Buoy

(street address)

Memphis

(city)

USA

(country)

Tenn.

(state)

38113

(zip code)

5. Defendant discriminated against plaintiff in the manner indicated in paragraph 9 of this complaint on or about 21 8 2011

(day)

(month)

(year)

6. Defendant filed charges against the defendant with the Tennessee Fair Employment Commission charging defendant with the acts of discrimination indicated in paragraph 9 of this complaint on or about N/A

(day)

(month)

(year)

7. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission charging defendant with the acts of discrimination indicated in paragraph 9 of this complaint on or about 28 12 2011

(day)

(month)

(year)

8. The Equal Employment Opportunity Commission issued a Notice of Right to Sue, which was received by plaintiff on 22 1 2013. (Attach a copy of the notice to this complaint.)

(day) (month) (year)

9. Because of plaintiff's (1) ☒ race, (2) ☐ color, (3) ☐ sex, (4) ☐ religion, (5) ☐ national origin, defendant

(a) ☐ failed to employ plaintiff.

(b) ☒ terminated plaintiff's employment.

(c) ☐ failed to promote plaintiff.

(d) ☐

10. The circumstances under which defendant discriminated against plaintiff were as follows: I WAS TERMINATED FOR VIOLATION OF CO. POLICY

A WHITE EMPLOYEE AND I WAS IN VERBAL MISCONDUCT
EARLIER THAN A WHITE CO-WORKER AND A BLACK EMPLOYEE WAS
INVOLVED IN SAME CONDUCT. WHITE EMPLOYEE VIOLATE POLICY
WITH INAPPROPRIATE LANGUAGE. NO ACTION WAS TAKEN AGAINST
HER. AN INVESTIGATION WAS DONE BUT STILL NO ACTION
I HAVE IN MY POSSESSION RECORDS AND STATEMENT TO PROVE
CHARGES. WILL PROVIDE ON REQUEST. IT IS MY BELIEF
UNCONSCIONABLE DISPARITY WAS USED IN JUDGEMENT.

11. The acts set forth in paragraph 9 of this complaint

- (a) ____ are still being committed by defendant.
 (b) ____ are no longer being committed by defendant.
 (c) ☒ may still be being committed by defendant.

12. Please attach to this complaint a copy of the charges filed with the Equal Employment Opportunity Commission, which are submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, Plaintiff prays that the Court grant the following relief to the plaintiff:

- (a) ____ Defendant be directed to employ plaintiff, or
 (b) ☒ Defendant be directed to re-employ plaintiff, or
 (c) ____ Defendant be directed to promote plaintiff, or;
 (d) ☒ Defendant be directed to PROVIDE APPROPRIATE RELIEF
AND COMPENSATION

and that the Court grant such other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

13. I would like to have my case tried by a jury. Yes (☒) No ()

William H. Mactelle Jr.
 SIGNATURE OF PLAINTIFF



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF EMPLOYMENT SECURITY
SEPARATION NOTICE

1. Employee's Name: Woodrow Mitchell 2. SSN 788
First Middle Initial Last
3. Last Employed: From: 08/11/97 to 08/21/11 Occupation: Operator
4. Where was work performed? 2330 Buoy Street; Memphis, TN 38113
5. Reason for Separation: ☐ Lack of Work ☒ Discharge ☐ Quit
If lack of work, indicate if layoff is ☐ Permanent ☐ Temporary
If temporary, when do you expect to recall this individual? _____
Date
If other than lack of work, explain the circumstances of this separation:

JUST CAUSE

6. Employee received: ☐ Wages in Lieu of Notice ☐ Separation Pay ☒ Vacation Pay
In the amount of \$ 2,558.40 for period from _____ to _____

Employer's
Name: Cargill, Inc

Address where additional information may be obtained:

P.O. Box 13368

(Street or RFD)

City: Memphis State: TN Zip Code: 38113

Employer's
Telephone Number: (901) 775-5908

(Area Code) (Number)

EMPLOYER'S ACCOUNT NUMBER

41017680

(Number shown on State Quarterly Wage Report (LB-0851) and
Premium Report (LB-0456))

I certify that the above worker has been separated from work and
the information furnished hereon is true and correct. This report
has been handed to or mailed to the worker.

Mishia A. Tony
Signature of Official or Representative of the Employer
who has first-hand knowledge of the separation.

Human Resources Coordinator

Title of Person Signing

8/22/11

Date Completed and Released to Employee

NOTICE TO EMPLOYER

Within 24 hours of the time of separation, you are
required by Rule 0560-1-1-02 of the Tennessee
Employment Security Law to provide the employee with
this document, properly executed, giving the reasons
for separation. If you subsequently receive a request
for the same information on LB-0810, please give
complete information in your response.

NOTICE TO EMPLOYEE

TAKE THIS NOTICE TO THE LABOR AND WORKFORCE DEVELOPMENT OFFICE IF YOU WISH TO FILE A
CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS.

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**490-2012-00616****Tennessee Human Rights Commission**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mr. Woodrow W. Mitchell

Home Phone (Incl. Area Code)

(901) 624-4605

Date of Birth

-1952

Street Address

City, State and ZIP Code

8952 Johnston Street, Cordova, TN 38016

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

CARGILL FOODS

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(901) 775-5800

Street Address

City, State and ZIP Code

2330 Buoy, Memphis, TN 38113

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ GENETIC INFORMATION
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE
Earliest Latest**08-21-2011****08-21-2011**☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I was discharged from my job as a machine operator on August 21, 2011. I was employed since August 11, 1997.

The reason given for my discharge just cause. I was charged with threatening a contract electrician.

Several months prior to me being charged with this offense, a white co-worker threatens a black female with physical harm and not discharged.

I believe that I was discriminated against, and discharged because of my race, black, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

DEC 28 2011**Dec 28, 2011**

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Woodrow W. Mitchell Jr 12-28-11
 SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (month, day, year)

12/28/2011 Dwight Johnson

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Woodrow W. Mitchell**
8952 Johnston Street
Cordova, TN 38016

From: **Memphis District Office**
1407 Union Avenue
Suite 901
Memphis, TN 38104

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

490-2012-00616

Dwight V. Johnson,
Investigator

(901) 544-0164

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Dwight Johnson

Katharine W. Kores,
Director

APR 22 2013

Enclosures(s)

(Date Mailed)

cc:

Al Sufka
Senior Lawyer
CARGILL
P.O. Box 5624
Minneapolis, MN 55440

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10 – not 12/1/10** -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.



**U.S. Equal Employment Opportunity Commission
Memphis District Office**

1407 Union Avenue
Suite 901
Memphis, TN 38104
(901) 544-0119
TDD: 1-800-669-6820
Fax: (901) 544-0111
1-800-669-4000

Respondent: CARGILL FOODS
EEOC Charge No.: 490-2012-00616
FEPA Charge No.:

December 28, 2011

Woodrow W. Mitchell
8952 Johnston
Cordova, TN 38016

Dear Mr. Mitchell:

This is to acknowledge receipt of the above-numbered charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

- ☒ Title VII of the Civil Rights Act of 1964 (Title VII)
- ☐ The Age Discrimination in Employment Act (ADEA)
- ☐ The Americans with Disabilities Act (ADA)
- ☐ The Equal Pay Act (EPA)
- ☐ The Genetic Information Nondiscrimination Act (GINA)

You need do nothing further at this time. We will contact you when we need more information or assistance. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

Please be aware that we will send a copy of the charge to Tennessee Human Rights Commission Andrew Johnson Tower 710 James Robertson Pkwy Nashville, TN 37243 as required by our procedures. If the charge is processed by that agency, it may require the charge to be signed before a notary public or an agency official. Then the agency will investigate and resolve the charge under their statute. If this occurs, section 1601.76 of EEOC's regulations entitles you to ask us to perform a Substantial Weight Review of the agency's final finding. To obtain this review, a written request must be made to this office within 15 days of receipt of the agency's final finding in the case. Otherwise, we will generally adopt the agency's finding as EEOC's.

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,

A handwritten signature in cursive script, reading "Dwight V. Johnson", is written over a horizontal line.
Dwight V. Johnson
Investigator
(901) 544-0164

Office Hours: Monday – Friday, 8:00 a.m. - 4:30 p.m.
www.eeoc.gov